

REMARKS

The Invention

The invention features a method of culturing a cell, for example, an oocyte or an embryo, *in vitro* by microinjecting into the cytoplasm of the cell a protective agent and culturing the cell in a hypertonic medium.

The Office Action

Claims 1-7, 10, and 14-31 are pending. Claims 1-7 and 10 stand rejected under 35 U.S.C. § 103. Claims 1-5 and 14-31 stand rejected under the judicially created doctrine of obviousness type double patenting over claims 31-32 of U.S. Patent No. 6,673,607. Each of these rejections is addressed in detail below.

Support for Claim Amendments

Claims 1-7 and 10 have been cancelled. Claims 14 and 23, which previously depended from claims 1 and 6 have been amended to incorporate the limitations of claims 1 and 6, respectively. New claims 32-39 correspond to claims 2-5, as originally filed. No new matter is introduced by these amendments.

Applicants note, for the record, that the current claim amendments were made solely for the purpose of expediting prosecution. Applicants reserve the right to pursue all canceled subject matter in this or future related applications.

Rejection of claims 1-7 and 10 under 35 U.S.C. § 103

Claims 1-7 and 10 stand rejected under 35 U.S.C. § 103 for obviousness over Rupp in view of Gullans. According to the Examiner it would have been obvious to combine Rupp's teaching of improved methods of protein production by culturing cells in a hypertonic medium with Gullans' teaching of culturing a rat glioma cell line in a hypertonic medium to arrive at the present invention. This rejection is overcome by the present amendment canceling claims 1-7 and 10. This rejection can now be withdrawn.

Rejection of Claims 1-5 and 14-31 for Obviousness-Type Double Patenting

Claims 1-5 and 14-31 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 31-32 of U.S. Patent No. 6,673,607. The Examiner states that the conflicting claims are not patentably distinct because the patent claims a method wherein one of the steps is identical to the claimed invention. In response, while not agreeing with the Examiner's position, in order to expedite prosecution Applicants concurrently submit a Terminal Disclaimer in which Applicants disclaim the terminal portion of the term of the entire patent to be granted upon the present application subsequent to the expiration date of U.S. Patent No. 6,673,607. This rejection can be withdrawn.

CONCLUSION

Applicants submit that the claims are now in condition for allowance and such action is respectfully requested.

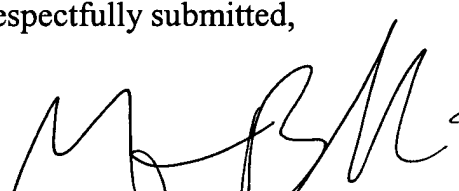
Applicants note that the Form PTO 1449 that was submitted with an Information Disclosure Statement filed on October 7, 2005 has not been initialed and returned, and hereby request that it be initialed and returned with the next Office action.

Enclosed are a Petition to extend the period for replying to the final Office action for one month, to and including January 20, 2006, and a check in payment of the required extension fee. Also enclosed is a Terminal Disclaimer under 37 C.F.R. § 1.321 and 3.73(b) and a check in payment of the required fee.

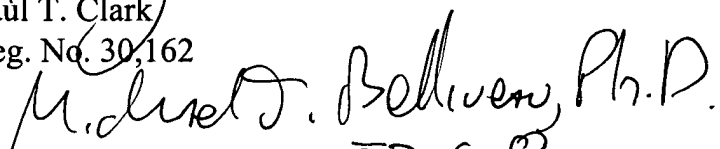
If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 1/20/06


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